

HOGAN & HARTSON
L.L.P.

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Writer's Direct Dial:
(202) 637-8537

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

December 1, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

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DEC - 1 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45

*Interim Hold-Harmless Provision of the Commission's High-Cost
Support Mechanism, FCC 99J-2*


Comments of Western Wireless Corporation

Dear Ms. Salas:

On behalf of Western Wireless Corporation ("Western Wireless"), I am enclosing for filing an original and four copies of Western Wireless' Comments in the referenced proceeding.

If you have any questions regarding this matter, please contact me.

Respectfully submitted,


Ronnie London
Counsel for Western Wireless Corp.

Enclosures

cc: Attached Service List

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
) CC Docket No. 96-45
Federal-State Joint Board on)
Universal Service) FCC 99J-2
)

**COMMENTS OF WESTERN WIRELESS CORPORATION ON
THE INTERIM HOLD-HARMLESS PROVISION**

Western Wireless Corporation ("Western Wireless"), by its attorneys, hereby responds to the Public Notice seeking comment on the Commission's interim hold-harmless provision for non-rural universal service support. 1/ The Joint Board and the FCC must remain focused on the central goal of the Act's universal service provisions, which is to transition from supporting ubiquitous telephone service through implicit non-cost-based subsidies to using explicit, portable mechanisms based upon forward-looking costs. 2/ Any hedge against implementing the new mechanism – which is what the interim hold-harmless provision constitutes – must be clearly limited in time and scope from the outset.

Western Wireless supports the FCC's determination that the hold-harmless provision be solely a *transitional* measure to blunt the effects of moving to

1/ *Federal-State Joint Board on Universal Service Seeks Comment on the Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism*, CC Docket No. 96-45, Public Notice, FCC 99J-2 (rel. Nov. 3, 1999) ("Public Notice").

2/ *See, e.g., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8780-88 (1997).

a new approach to universal service. ^{3/} The FCC's basis for adopting the hold-harmless provision – preventing rate shock and/or the need for immediate state action in areas where an incumbent carrier either does not qualify for forward-looking support under the new mechanism, or qualifies for forward-looking support in an amount less than it presently receives ^{4/} – will rapidly diminish over time given the size of the non-rural carriers and their ability to make any necessary adjustments. Thus, the Joint Board (and the FCC) must in no uncertain terms impose tight time limits on the hold-harmless mechanism.

Western Wireless believes that “hold harmless” should apply for a strictly limited period of time of no longer than one year. ^{5/} One year is a sufficient transition period during which carriers and state commissions can adjust to the reduction in support. Moreover, in keeping with the core intent underlying the hold-harmless mechanism – avoiding rate-shock – transitional hold-harmless support should be eliminated on a tapered basis, *i.e.*, provided at 100% of the

^{3/} *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, FCC 99-306, ¶ 88 (rel. Nov. 2, 1999).

^{4/} *Id.* at ¶¶ 79, 81.

^{5/} This limited transition period is consistent with the approach the FCC has taken in other situations involving adjustments to how carriers recover their costs. *See, e.g., Transport Rate Structure and Pricing*, 7 FCC Rcd 7006, ¶¶ 61-64 (1992), *recon.*, 8 FCC Rcd 5370, ¶¶ 51-55 (1993), *second recon.*, 8 FCC Rcd 6233, ¶ 4 (1993) (restructured “transport interconnection charge” intended to be revenue neutral only during first year after implementation of rate structure change), *rev’d, Competitive Telecomms. Ass’n v. FCC*, 87 F.3d 522 (D.C. Cir. 1996) (reversed in part due to an impermissibly long transition period). The FCC took a similar approach for the rate structure changes in *Access Charge Reform*, 12 FCC Rcd 15982 (1997), *aff’d sub nom. Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1998).

current level of support for the first six months and at 50% for the last six months, or some similar arrangement. Only by taking such an approach will the FCC be able to successfully restrict the hold-harmless provision to serving the limited, transitional goal its adoption was intended to achieve.

Respectfully submitted,

**WESTERN WIRELESS
CORPORATION**

By: 

Gene DeJordy
Vice President of
Regulatory Affairs
WESTERN WIRELESS CORPORATION
3650 - 131st Ave., S.E., Suite 400
Bellevue, WA 98006
(425) 586-8055

Michele C. Farquhar
David L. Sieradzki
Ronnie London
HOGAN & HARTSON, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
(202) 637-5600

Counsel for Western Wireless
Corporation

Dated: December 1, 1999

SERVICE LIST

Martha Hogerty
Public Counsel
Missouri Office of Public Counsel
301 West High St., Suite 250
Truman Building
P.O. Box 7800
Jefferson City, MO 65102

Laska Schoenfelder
Commissioner
South Dakota Public Utilities Commission
State Capitol, 500 East Capitol Street
Pierre, SD 57501-5070

Patrick H. Wood, III
Chairman
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

Sheryl Todd
Federal Communications Commission
445 12th Street, S.W.
Room 5-B540
Washington, DC 20554

Peter Bluhm
Director of Policy Research
Vermont Public Service Board
Drawer 20
112 State St., 4th Floor
Montpieller, VT 05620-2701

Charlie Bolle
Policy Advisor
Nevada Public Utilities Commission
1150 E. Williams Street
Carson City, NV 89701-3105

Rowland Curry
Policy Consultant
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78701

Ann Dean
Assistant Director
Maryland Public Service Commission
6 Paul Street, 16th Floor
Baltimore, MD 21202-6806

Carl Johnson
Telecom Policy Analyst
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Lori Kenyon
Common Carrier Specialist
Alaska Public Utilities Commission
1016 West 6th Ave, Suite 400
Anchorage, AK 99501

David Dowds
Florida Public Service Commission
2540 Shumard Oaks Blvd.
Gerald Gunter Bldg.
Tallahassee, FL 32399-0850

Greg Fogleman
Florida Public Service Commission
2540 Shumard Oaks Blvd.
Gerald Gunter Bldg.
Tallahassee, FL 32399-0850

Doris McCarter
Economist
Ohio Public Utilities Commission
Telecommunications, 3rd Floor
180 East Broad St.
Columbus, OH 43215

Philip McClelland
Assistant Consumer Advocate
PA Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Susan Stevens Miller
Assistant General Counsel
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, MD 21202-6806

Mary E. Newmeyer
Federal Affairs Advisor
Alabama Public Service Commission
100 N. Union Street, Ste. 800
Montgomery, AL 36104

Tom Wilson
Economist
Washington Utilities & Transportation Commission
1300 Evergreen Park Drive, S.W.
P.O. Box 47250
Olympia, WA 98504-7250